

## Memphis City Council Summary Sheet Instructions

### Resolution for FY13 Public Works CIP Street Lighting

- This resolution is for the fiscal year 2013 CIP and funds the roadway lighting maintenance costs for street lights along the interstate system within the City of Memphis limits.
- This is part of the yearly CIP budget process whereby Public Works receives funding from the CIP for street lighting costs associated with the interstate system inside the City of Memphis limits.
- This has no impact to any current ordinance or resolution.
- This resolution requires no contracts nor amends an existing contract.
- This resolution provides \$1,000,000 in funding from the FY13 CIP budget, for the maintenance costs of the Interstate street lighting system located within the City of Memphis limits.

## RESOLUTION

**WHEREAS**, the Council of the City of Memphis approved Street Lighting, project number PW01093 as part of the Public Works Fiscal Year 2013 Capital Improvement Budget; and

**WHEREAS**, funds are needed to cover the cost of the interstate street lighting system located within the City of Memphis; and

**WHEREAS**, it is necessary to transfer an allocation of \$1,000,000.00 funded by G.O. Bonds - General from Street Lighting, project number PW01093 to FY13 Street Lighting, project number PW01238 to cover the cost of the interstate street lighting system located within the City of Memphis; and

**WHEREAS**, it is necessary to appropriate \$1,000,000.00 funded by G.O. Bonds – General for FY13 Street Lighting, project number PW01238.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$1,000,000.00 funded by G.O. Bonds - General from Street Lighting, project number PW01093 to FY13 Street Lighting, project number PW01238 to cover the cost of the interstate street lighting system located within the City of Memphis.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$1,000,000.00 funded by G.O. Bonds – General chargeable to the Fiscal Year 2013 Capital Improvement Budget and credited as follows:

<b>Project Title:</b>	<b>FY13 Street Lighting</b>
<b>Project Number</b>	<b>PW01238</b>
<b>Amount:</b>	<b>\$1,000,000.00</b>



**Memphis City Council  
Summary Sheet  
CIPP Cypress Creek 24-30 Rehab**

1. This project is to clean and install cured in place pipe (CIPP) under concrete channel lining of Cypress Creek.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This item does not change an existing ordinance or resolution.
4. This item does require a new contract.
5. This item requires an expenditure of funds.
6. The approved MWBE Goal for this project is 0%.

## RESOLUTION

**WHEREAS**, the Council of the City of Memphis approved Rehab Existing Sewers, project number SW02001 as part of the Public Works Fiscal Year 2013 Capital Improvement Budget; and

**WHEREAS**, bids were taken on June 8, 2012 for the installation of cured in place pipe (CIPP) liner in a section of the Cypress Creek sewer outfall with the lowest complying bid of seven bids being \$696,897.68 submitted by Reynolds Inliner, LLC; and

**WHEREAS**, it is necessary to transfer an allocation of \$766,587.00 funded by Sewer Revenue Bonds from Rehab Existing Sewers, project number SW02001 to CIPP Cypress Creek 24-30 Rehab, project number SW02101 for the installation of CIPP liner in a section of the Cypress Creek sewer outfall; and

**WHEREAS**, it is necessary to appropriate \$766,587.00 funded by Sewer Revenue Bonds in CIPP Cypress Creek 24-30 Rehab, project number SW02101 as follows:

Contract Amount	\$ 696,898.00
Project Contingencies	<u>69,689.00</u>
Total	\$ 766,587.00

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$766,587.00 funded by Sewer Revenue Bonds from Rehab Existing Sewers, project number SW02001 to CIPP Cypress Creek 24-30 Rehab, project number SW02101 for the installation of CIPP liner in a section of the Cypress Creek sewer outfall.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$766,587.00 funded by Sewer Revenue Bonds chargeable to the Fiscal Year 2013 Capital Improvement Budget and credited as follows:

<b>Project Title:</b>	<b>CIPP Cypress Creek 24-30 Rehab</b>
<b>Project Number</b>	<b>SW02101</b>
<b>Amount:</b>	<b>\$766,587.00</b>



## Memphis City Council Summary Sheet Instructions

Resolution for FY13 CIP Street Resurfacing recoveries for Public Works, Street Maintenance

- This resolution is for the fiscal year 2013 CIP and funds the in house paving operations performed by the Street Maintenance department.
- This is part on yearly CIP budget process whereby Public Works, Street Maintenance receives funding from CIP in order to pave City streets using City forces and equipment.
- This has no impact to any current ordinance or resolution.
- This resolution indirectly funds several contracts as the funds recovered by the CIP allow Street Maintenance to purchase the various materials used to produce asphalt for paving. These materials are generally bid and purchased under contracts.
- This resolution recovers \$6,500,000 from the FY13 CIP budget, providing funding for Street Maintenance personnel as well as materials and supplies.

## **RESOLUTION**

**WHEREAS**, the Council of the City of Memphis approved Asphalt Paving, project number PW01040 as part of the Fiscal Year 2013 Capital Improvement Budget; and

**WHEREAS**, \$6,500,000.00 is needed to pave City streets using City forces and equipment; and

**WHEREAS**, expenses will be inter-fund billed from the General Fund to FY13 Asphalt Paving, project number PW01239; and

**WHEREAS**, it is necessary to transfer an allocation of \$6,500,000.00 funded by GO Bonds – General from Asphalt Paving PW01040 to FY13 Asphalt Paving, project number PW01239 needed to pave City streets using City forces and equipment; and

**WHEREAS**, it is necessary to appropriate \$6,500,000.00 funded by GO Bonds - General for FY13 Asphalt Paving, project number PW01239.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$6,500,000.00 funded by G O Bonds - General from Asphalt Paving, project number PW01040 to FY13 Asphalt Paving, project number PW01239 needed to pave City streets using City forces and equipment.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$6,500,000.00 in G O Bonds - General chargeable to the Fiscal Year 2013 Capital Improvement Budget and credited as follows:

<b>Project Title:</b>	<b>FY13 Asphalt Paving</b>
<b>Project Number:</b>	<b>PW01239</b>
<b>Amount:</b>	<b>\$6,500,000.00</b>



## Memphis City Council Summary Sheet Instructions

Resolution for the Cypress Creek Rehab for Cypress Creek from east of University to McLean ST03150: This has been declared an emergency project by the CAO.

1. Project is to repair/replace the existing concrete channel lining which has failed. Work to be done in a Resource Conservation and Recovery Act (RCRA) boundary which contains contaminated soil.
2. This project is initiated by the Public Works Division in response to the recommendation of the City Engineer.
3. This project is currently in the CIP budget taken from the Major Drainage Rehab/Repair storm water fund and is designated as project ST03150.
4. This project requires a construction contract with Ferrell Paving, to repair/replace the existing concrete channel lining.
5. This project requires an expenditure of storm water funds as shown in the current CIP 2013 fiscal year budget.
6. The project will require the purchase of a parcel of property located at 0 Edwards, Lot #7, University Lane Subdivision, Parcel ID 041030 00035.
7. This project has an MWBE Goal of 8%

## RESOLUTION

**WHEREAS**, the Council of the City of Memphis approved Major Drainage Rehab/Replace, project number ST03098, as part of the Public Works Fiscal Year 2013 Capital Improvement Budget; and

**WHEREAS**, bids were taken on June 15, 2012 to repair/replace the existing concrete channel lining at Cypress Creek east of University to Mclean, which has failed with only complying bid being \$1,292,639.65 submitted by Ferrell Paving; and

**WHEREAS**, this project will require the purchase of a parcel of property located at 0 Edwards, Lot #7, University Lane Subdivision, Parcel ID 041030 00035 for \$8,000.00; and

**WHEREAS**, it is necessary to amend the Fiscal Year 2013 Capital Improvement Budget by transferring an allocation of \$1,744,536.00, (\$1,736,536.00 Construction, \$8,000 Architecture & Engineering) funded by G.O. Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03098, to Cypress Creek Rehab, project number ST03150 to repair/replace the existing concrete channel lining which has failed; and

**WHEREAS**, it is necessary to appropriate \$1,744,536.00, (\$1,736,536.00 Construction, \$8,000 Land Acquisition) funded by G.O. Bonds – General (Storm Water) in Cypress Creek Rehab, project number ST03150 as follows:

Contract Amount	\$ 1,292,640.00
Project Contingencies	\$ 193,896.00
Potential Uncertainties	\$ 250,000.00
<u>Land Acquisition</u>	<u>\$ 8,000.00</u>
Total	\$ 1,744,536.00

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the purchase of property located at 0 Edwards, Lot #7, University Lane Subdivision, Parcel ID 041030 00035 for \$8,000.00 is approved.

**BE IT RESOLVED**, that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$1,744,536.00, (\$1,736,536.00 Construction, \$8,000 Architecture & Engineering) funded by G.O. Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03098, to Cypress Creek Rehab, project number ST03150 to repair to repair/replace the existing concrete channel lining which has failed.



**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$1,744,536.00 (\$1,736,536.00 Construction, \$8,000 Land Acquisition) funded by G.O. Bonds - General (Storm Water) chargeable to the Fiscal Year 2013 Capital Improvement Budget and credited as follows:

<b>Project Title</b>	<b>Cypress Creek Rehab</b>
<b>Project Number</b>	<b>ST03150</b>
<b>Amount</b>	<b>\$1,744,536.00</b>



## Memphis and Shelby County Metro Alarm Office

To: George Little, Chief Administrative Officer      Memorandum  
From: *MSH* Mike Freeman, Alarm Administrator  
Date: June 18, 2012  
Re: False Alarm Response Data

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In light of research conducted several years ago by a false alarm task force composed of members of the local crime commission, alarm industry experts and local executive law enforcement representatives false alarm dispatch requests and response would potentially grow 8% per year if left unabated, due to increased alarm system installation, alarm system advancement and crime. The below information is submitted to assist with assessments and information provided in PERF reports for false alarm dispatch request and response in Memphis, since implementing the current alarm system ordinance in the year 2000:

<u>City False Alarms 2000</u>	<u>126,000+</u>
City False Alarms 2009	52,377
City False Alarms 2010	45,023
City False Alarms 2011	46,601

The above information would indicate an approximate and sustained 63% drop in false alarms since implementing the current alarm ordinance. It is evident the Metro Alarm Office has contributed to a significant reduction in the number of false alarms MPD has responded to since 2000.

Thank you.

C: A C Wharton, Jr. Mayor, City of Memphis  
Bill Morrison, City Council Chairman  
Roland McElrath, Director, Division of Finance  
Toney Armstrong, Director, Memphis Police Department  
Cecil Hogan, Chairman, Metro Alarm Board

Mf/mf



## Memphis City Council Summary Sheet

Resolution authorizes the Mayor of the City of Memphis to sign an Intra-governmental Agreement between the City of Memphis and Memphis Light, Gas & Water (MLGW) for the use of grant funds in the amount of two million (\$2,000,000.00) dollars from the Tennessee Department of Economic and Community Development (ECD) FastTrack Infrastructure Development Program on behalf of K.T.G. (USA) Inc. for the purchase of electrical equipment for a new sub-station.

- The City of Memphis Division of Engineering has drafted this resolution and is recommending City Council approval.
- MLGW has an agreement with K.T.G. to purchase all necessary equipment for a new electrical sub-station. K.T.G. has provided MLGW with an advance deposit to cover acquisition expenses that are to be reimbursed with grant funds up to \$2,000,000.00.
- The City of Memphis will collaborate with MLGW for use of the \$2,000,000.00 of such funds to purchase the electrical components and equipment for the new sub-station consistent with the EDC agreement.
- MLGW will provide documented paid invoices to the City for K.T.G. equipment acquisition. The City will submit the invoices to the State for reimbursement in accordance with the ECD contract.
- The City will enter in to a sub-recipient agreement with K.T.G. to reimburse funds that K.T.G. paid in advance to MLGW for the purchase of equipment.
- K.T.G. will provide grant matching funds in the amount of \$1,547,000.00. No City funds will be required for this grant.

## **RESOLUTION**

**WHEREAS**, the City of Memphis has been awarded \$2,000,000.00 by the Tennessee Department of Economic and Community Development ("ECD") through its Fast Track Infrastructure Development Program for and on behalf of K.T.G. (USA) Inc. for purchase of equipment for the installation of a new electrical sub-station; and

**WHEREAS**, in accordance with ECD funds awarded to the City, ECD has acknowledged that the City will collaborate with Memphis Light, Gas and Water (MLGW) for use of \$2,000,000.00 of such funds for the purchase of certain electrical components and equipment on behalf of K.T.G. for the sub-station; and

**WHEREAS**, K.T.G. and MLGW have entered into an agreement for MLGW to purchase the necessary electrical components and equipment for the sub-station with funds deposited in advance by K.T.G. which are to be reimbursed through grant funds not to exceed \$2,000,000.00; and

**WHEREAS**, the City in accordance with an intra-governmental agreement with MLGW will submit itemized expenditures provided by MLGW to ECD in order to refund K.T.G. for funds previously paid to MLGW for purchase of electrical equipment; and

**WHEREAS**, the City and K.T.G will enter into a sub-recipient agreement for the City to reimburse K.T.G. for funds paid in advance to MLGW for purchase of said equipment; and

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor of the City of Memphis is hereby authorized to execute the aforementioned Intra-Governmental agreement with MLGW in order to execute those terms set forth in the agreement.

CONTRACT NUMBER \_\_\_\_\_

**INTRA-GOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
MEMPHIS AND MEMPHIS LIGHT GAS & WATER FOR THE USE OF  
GRANT FUNDS FROM THE TENNESSEE DEPARTMENT OF  
ECONOMIC AND COMMUNITY DEVELOPMENT ("ECD") THROUGH  
ITS FASTTRACK INFRASTRUCTURE DEVELOPMENT PROGRAM**

This Intra-governmental Agreement ("Agreement") is hereby made effective this \_\_\_\_ day of \_\_\_\_\_, 2012 by and between the **CITY OF MEMPHIS**, a Tennessee municipal corporation (hereinafter referred to as "City"), and **MEMPHIS LIGHT, GAS & WATER**, (hereinafter referred to as "MLGW"), a division of the City of Memphis established by enactment of Chapter 381 of the Private Acts of 1939 (collectively "Parties" and individually "Party").

**RECITALS**

**WHEREAS**, the City of Memphis has been awarded \$2,000,000.00 by the Tennessee Department of Economic and Community Development ("ECD") through its FastTrack Infrastructure Development Program for and on behalf of K.T.G. (USA) Inc. and

**WHEREAS**, ECD grant funds must be used in a manner that improves public infrastructure in order to create new jobs and business investment; and

**WHEREAS**, in accordance with the ECD funds awarded to City, ECD has authorized City to collaborate with MLGW for the use of \$2,000,000.00 of such funds to perform certain utility infrastructure improvements on behalf of K.T.G. (USA) Inc.; and

**WHEREAS**, pursuant to the provisions of Tenn. Code Ann. §12-9-101 *et seq.* and, more specifically, §12-9-104, any two (2) or more public agencies may enter into agreements with one another for joint or cooperative action; and

**WHEREAS**, the parties hereto are public agencies as defined within Tenn. Code Ann. §12-9-104.

**NOW, THEREFORE, the Parties do hereby agree as follows:**

**1. Authority and Purpose.**

**1.1** City has specifically been authorized by ECD to collaborate with MLGW for the use of ECD funds in the amount of \$2,000,000.00 to perform to perform certain utility infrastructure improvements on behalf of K.T.G. (USA) Inc.

**1.2** Tenn. Code Ann. §12-9-101, *et seq.* authorizes any two or more public agencies to enter into agreements for the joint or cooperative exercise of

any power, privilege or authority exercised or capable of exercise individually by such public agencies. City and MLGW are public entities within the meaning of these laws.

**1.3** It is the purpose of this Agreement for the Parties to make the most efficient use of their powers by cooperating with each other on the basis of mutual advantage and benefit of K.T.G. (USA) Inc. and the citizens of the City of Memphis.

## **2. Administration of Agreement.**

**2.1** The Parties acknowledge The grant provides \$2,000,000, which represents 82% funding of a total of \$2,439,024, and KTG must provide an 18% match (or \$439,024).

**2.2** No separate legal or administrative entity is created under this Intra-governmental Agreement.

**2.3** As used herein, the term costs shall include, but is not limited to, all out-of- pocket costs and expenses reasonably incurred in connection with the purchase of utility equipment. MLGW agrees to submit to City an itemization evidencing all expenditures incurred by MLGW with respect to utility equipment purchases and all purchases of said equipment by K.T.G. (USA) Inc.

**2.4** The City of Memphis as the Grantee will hold all grant funds received from ECD. After MLGW submits itemization of expenditures to the City, the City shall be solely responsible to submit them to ECD and to make any refund payments to K.T.G. (USA) Inc. which has previously paid MLGW for said utility equipment. A determination of eligible costs and expenditures shall be governed by ECD and applicable FastTrack rules and regulations. Any cost or expenditure deemed ineligible by City or ECD as the funding agency shall be the sole responsibility of K.T.G. (USA) Inc.

## **3. Special Provisions**

**3.1** Reserved.

## **4. Term and Termination**

**4.1** The terms of this Agreement shall be for a period not exceeding thirty-six (36) months, unless otherwise extended in writing by the Parties.

**4.2** This Agreement shall be subject to funding and shall be terminated in the event such funding is not made available by ECD. Neither City nor

MLGW shall be deemed in breach of this Agreement in the event of such termination.

5. **Indemnification.** Both parties acknowledge the self-insured status of the other and that as a political subdivision of the State of Tennessee, each party is governed by the provisions of the Tennessee Governmental Tort Liability Act for causes of action sounding in tort. The parties further acknowledge that as a political entity, neither is required to indemnify or hold harmless the other beyond the liability imposed by law because such contractual provisions are unenforceable to the extent the parties agree to appropriate public money and nullify governmental immunity without the authorization of the Tennessee General Assembly. City shall have no liability whatsoever for the work performed by contractors hired or retained by MLGW.

6. **Assignment.** This Agreement shall be binding upon and enure to the benefit of the Parties and their successors or assigns; provided, this Agreement shall not be assigned or otherwise transferred to a third party without the prior written consent of the other Parties hereto.

7. **Notices.** All notices or other communications which are required or permitted herein shall be in writing and shall be sufficient if delivered personally, sent by facsimile transmission, or sent by registered or certified mail, postage prepaid, return receipt requested, to the parties at their addresses or facsimile numbers set forth below which may be changed from time to time by notice to the other party:

**CITY:** Office of Grants Compliance  
125 North Main, Room 336  
Memphis, TN 38103  
901.576.6614  
901.576.6524

With copy to: City Attorney  
125 North Main, Room 336  
Memphis, TN 38103  
901.576.6614  
901.576.6524

**MLGW:** Dana Jeanes  
MLGW Controller  
220 S. Main St., Room 503  
Memphis, TN 38103  
(901) 528-4135

With copy to: MLGW General Counsel  
225 South Main, Room 529  
Memphis, TN 38103  
(901) 528- 9651

8. **Audit.** City reserves the right to inspect and require the production of each document maintained by MLGW related to this Agreement and the work performed hereunder. MLGW shall maintain all records related to the performance of this Agreement in its possession for a period of five (5) years and shall require its contractors to do the same. Upon the expiration of the five (5) year period, MLGW shall tender all documentation in its possession related to this Agreement to City.

9. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the statutory and decisional laws of the State of Tennessee.

10. **Entire Agreement.** This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof. All prior agreements, representations, statements, and negotiations are hereby superseded. This Agreement may be amended only by a writing executed by both parties.

11. **Amendment.** This Agreement may be modified or amended only by a written document signed by both parties.

12. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity or enforceability of the remaining provisions.

13. **Effective Date.** This Agreement shall be executed in triplicate originals, and the Effective Date shall be as written above. All requirements for periodic meetings or action shall date from the Effective Date of this Agreement.

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**IN WITNESS WHEREOF**, the parties, by and through their duly authorized representatives, have executed this INTRA-GOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MEMPHIS AND MEMPHIS LIGHT, GAS & WATER as of the date above written.

**CITY OF MEMPHIS**

**MEMPHIS LIGHT GAS AND  
WATER**

BY: \_\_\_\_\_  
A C WHARTON, Jr., MAYOR

BY: \_\_\_\_\_  
JERRY COLLINS, PRESIDENT

**APPROVED AS TO FORM:**

**ATTEST:**

BY: \_\_\_\_\_  
HERMAN MORRIS, JR.,  
CITY ATTORNEY

BY: \_\_\_\_\_  
DANA JEANES  
SECRETARY – TREASURER

BY: \_\_\_\_\_  
COMPTROLLER - DEPUTY

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
CHERYL PATTERSON  
GENERAL COUNSEL, MLGW

**CONTRACT NUMBER:** \_\_\_\_\_

**AGREEMENT BETWEEN THE MEMPHIS LIGHT, GAS AND WATER AND  
K.T.G. (USA), INC. FOR USE OF GRANT PROCEEDS TO FUND  
INFRASTRUCTURE IMPROVEMENTS**

This agreement (the "Agreement") entered into this 6 day of Jan, 2012 by and between Memphis Light, Gas and Water, a municipal utility company and a division of the City of Memphis, hereinafter referred to as "MLGW" and K.T.G. (USA) Inc., hereinafter referred to as "KTG".

**WITNESSETH**

**WHEREAS**, MLGW is willing to either seek a grant from the Tennessee Department of Economic and Community Development ("ECD") through its FastTrack Infrastructure Development Program, or in the alternative, to work with the City of Memphis("the City"), who has expressed a willingness to obtain said grant; and

**WHEREAS**, this grant (hereinafter "ECD grant") will be used by MLGW to pay for the costs to purchase certain electric transmission and distribution equipment (the "Equipment") to allow for greater power usage at KTG's Memphis plant located at 400 Mahannah Avenue in Memphis, Tennessee; and

**WHEREAS**, KTG agrees to grant access to its property and all equipment necessary for the purpose of delivery and inspection of said equipment by or with the assistance of MLGW; and

**WHEREAS**, MLGW anticipates that the maximum amount of ECD grant shall be Two Million Dollars (\$2,000,000.00) (the "Grant Funds"); and

**WHEREAS**, KTG agrees to reimburse MLGW for any and all costs relating to the purchase of Equipment which is not covered by the ECD grant and will provide appropriate security to MLGW to ensure said payment; and

**WHEREAS**, KTG shall deposit funds with MLGW (the "Deposit") prior to MLGW's placing each Equipment order to ensure payment of Equipment costs not paid by the Grant Funds; and

**WHEREAS**, the parties desire to enter into an agreement setting forth the terms of such payments to be made to MLGW by KTG.

**NOW THEREFORE**, for and in consideration of the premises and mutual promises contained herein and for good and other valuable consideration, the parties hereby agree as follows:

## **SECTION 1, REIMBURSEMENT PROCESS**

1.01 The parties acknowledge that MLGW anticipates that the ultimate source of funding for costs associated with purchase of said Equipment shall be provided through the ECD grant and that KTG shall provide the required matching funds for this grant. The grant provides \$2,000,000, which represents 82% funding of a total of \$2,439,024, and KTG must provide an 18% match (or \$439,024). The infrastructure projects for matching funding have already been completed by KTG and are not part of the Equipment purchase for the sub-station project. KTG shall reimburse MLGW for any costs which are not provided for by such grant. KTG further agrees that it shall reimburse MLGW through the Deposit for the costs of said Equipment in the event that neither the City nor MLGW is awarded the ECD grant. In the event the Deposit is not sufficient to pay Equipment costs, KTG will indemnify MLGW for such excess costs as set out herein.

1.02 As used herein, the term costs shall include, but is not limited to, all out-of-pocket costs and expenses reasonably incurred in connection with the purchase of said equipment. MLGW agrees to submit to KTG an invoice evidencing all expenditures incurred by MLGW with respect to the Agreement. To the extent the ECD grant funds are insufficient, MLGW may request for reimbursement of such payments.

1.03 MLGW and KTG anticipate that the initial Equipment order will be placed on or before January 13, 2012. For the initial and subsequent Equipment purchases, KTG shall make an advanced Deposit payment to MLGW for the cost of the Equipment being ordered. Upon receipt of the Deposit and agreement on specifications between MLGW and KTG, MLGW shall submit a bidding blank for a control building and switch gear, a portion of the Equipment, with AZZ/Central Electric within five (5) business days. Upon final approval by the State of Tennessee of the ECD grant, MLGW shall promptly submit grant payment materials to ECD to obtain Grant Funds reimbursement after each Equipment order. When payment for equipment becomes due, MLGW may pay invoices from ECD Grant Funds if the funds have been received from ECD. If ECD Grant Funds have not been received, MLGW shall pay invoices from KTG's Deposit. Upon receipt of ECD Grant Funds, MLGW shall release the corresponding amount of Deposit funds to KTG.

1.04 During the effective period of this Contract, both MLGW and KTG shall cooperate in maintaining accounting records to track Equipment purchases and accounting related to Grant Funds and the Deposit.

1.05 Subject to the extension rights set out below, this agreement shall terminate after final delivery of the Equipment, payment of all corresponding invoices and refund to KTG of any unused portion of the Deposit. Notwithstanding the foregoing, KTG shall have the right to request additional Equipment purchases through MLGW after grant Funds are exhausted subject to KTG's making full prepayment deposits as set out above.

## **SECTION 2. OBLIGATIONS OF MLGW**

All purchases of electric Equipment shall be managed and completed by 'Force Account' by MLGW. "Force Account" shall be defined as contracted construction work paid for on the basis of time taken and material consumed. MLGW shall endeavor and use all good faith efforts to promptly order and obtain Equipment in accordance with the schedule attached on Exhibit A. The parties acknowledge that changes in the scope of Equipment may become necessary during the term of the ECD Grant, and that changes will become effective only upon execution of written change orders or other mutually acceptable amendment documents.

## **SECTION 3. TERM AND TERMINATION**

3.01 This Agreement shall commence on the date of execution hereof by all parties, and shall remain in effect for the term of the ECD grant; provided that KTG's obligation to reimburse MLGW shall survive the termination of this Agreement until all Equipment costs have been fully reimbursed.

3.02 MLGW may terminate this Agreement based upon KTG's failure to fulfill in a timely and proper manner its obligation under this Agreement (subject to the notice and cure rights as set out in Section 3.04 below) and , KTG shall immediately become directly responsible for all reasonable costs incurred pursuant to the Agreement or which shall be incurred by MLGW. Such termination shall not relieve KTG of any actual damages sustained by the MLGW and shall be in addition to any other remedies available for such breach in law or equity.

3.03 Nothing in this Agreement shall be construed as prohibiting MLGW from pursuing any other available remedies, including without limitation, injunctive relief and monetary damages.

3.04 In the event of the breach of any covenant under this Agreement by either party, the other party shall give the breaching party written notice thereof as set out in Section 5 herein. The breaching party shall then have a period of ten (10) days to cure the default. Failure to timely cure an event of default shall entitle the other party to seek any available remedy in law or equity.

## **SECTION 4. FINANCIAL COMMITMENT**

KTG agrees to pay MLGW in advance for each purchase of electric Equipment made by MLGW on behalf of KTG. MLGW shall refund said payments to KTG to the extent that said purchases are reimbursed by Grant Funds.

## **SECTION 5. NOTICES**

All notices required or given pursuant to this Agreement shall be deemed to have been duly served if delivered in person to an authorized representative or sent by registered or certified mail, returned receipt requested, to the following address:

As to MLGW:

Memphis Light Gas and Water Division  
Management Department  
220 South Main Street  
P. O. Box 430 Memphis Tennessee 38101-0430

As to KTG:

K.T.G. (USA) Inc.  
400 Mahannah  
Memphis, Tennessee 38103  
Attention: Dan A. Clarahan

## **SECTION 6. LAWS AND ORDINANCES; INDEMNIFICATION**

6.01 KTG shall comply with all laws, ordinances, and regulations pertaining to installation of said electric equipment and shall defend, protect, indemnify, and hold harmless MLGW and its employees, officials, representatives, and agents from and against any and all claims, loss, damage, injury, expenses, judgments, costs, or attorneys fees arising or resulting from the sole negligent performance by KTG, its contractors, agents, representatives, subcontractors, and employees.

6.02 MLGW is subject to the Tennessee Public Records Act. As such, this Agreement may be examined by the public after its execution.

## **SECTION 7. INSURANCE**

7.01 Insurance Requirements – Before commencing Work under this Agreement, KTG shall furnish MLGW with an original certificate of insurance from a company acceptable to MLGW that is licensed to do business in the State of Tennessee and having an A.M. BEST FPR rating of no less than A:IX. Said insurance certificate shall name MLGW, its officials, employees, agents, and consultants as additional insureds except for workers' compensation. The insurance certificate shall state that waivers of subrogation have been provided by endorsement to the Workers Compensation and Employer's Liability Insurance, Commercial General Liability Insurance and Business Automobile Liability Insurance policies. Failure to maintain the required insurance may result in termination of the Agreement.

Liability, umbrella and excess policies must not contain any cross liability exclusions.

If insurance coverage will expire prior to completion of the Agreement, KTG shall furnish a certificate of insurance evidencing renewal of such coverage to MLGW. The certificate of insurance shall clearly show this Agreement number and provide 60 days notice of cancellation and nonrenewal given to MLGW by certified mail. Should MLGW require such copies, the copies will be certified by the insurance company and mailed to MLGW within 30 days of request. The certificate will have the following wording deleted from the disclaimer on the bottom right of the certificate: "Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail 60 days written notice to the certificate holder to the left. If KTG has any selfinsured retentions under any of the following minimum required coverages, KTG must identify on the certificate of insurance the nature and amount of such self-insured retentions and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retentions will be KTG's sole responsibility.

KTG shall not allow any subcontractor to commence performance under this Agreement until the insurance certificates of the subcontractor, reflecting coverages proportionate to that required of KTG, have been obtained, submitted and approved by Contract Management. Failure by MLGW to review certificates of insurance and endorsements will not relieve KTG from its requirements to maintain the required insurance nor be construed as a waiver of KTG's obligation to maintain such insurance. MLGW has the right to obtain certified copies of KTG's policies applicable to this Agreement.

Insurance Coverage: Unless modified by the MLGW Contract Management Department the following insurance coverages are required.

7.02 Workers Compensation and Employer's Liability Insurance: KTG shall obtain and maintain during the life of this Contract workers compensation insurance in statutory limits, including occupational disease, covering all employees acting within the course and scope of their employment.

Coverage shall also include employer's liability insurance at the following limits:

- i. Bodily injury by accident \$500,000 each accident;
- ii. Bodily injury by disease \$500,000 each employee;
- iii. A waiver of subrogation in favor of MLGW and its commissioners, officers and employees.

7.03 Commercial General Liability Insurance:

KTG shall maintain occurrence version commercial general liability insurance. Such insurance shall cover bodily injury, including death, and property damage, providing the following limits:

- i. Each occurrence \$1,000,000;
- ii. General aggregate \$2,000,000;
- iii. Products/Completed Operations aggregate \$2,000,000;

iv. Personal Injury \$1,000,000;

Coverage shall be provided on ISO occurrence form CG 00 01 07 98 (or substitute form providing equivalent or greater coverage) and include:

i. Premises and Operations Liability Coverage;

ii. Personal Injury and Advertising Injury Liability Coverage;

iii. Coverage for liability assumed under insured contracts, for independent contractors, for damage to premises rented to you, as well as a "separation of insureds" clause;

iv. Products/Completed Operations Liability Coverage;

v. A Designated Location(s) General Aggregate Limit endorsement covering all MLGW locations where contracted work/services will be performed;

vi. A waiver of subrogation in favor of MLGW, its commissioners, officers and employees.

#### 7.04 Business Automobile Liability Insurance:

KTG shall maintain occurrence version business automobile liability insurance in the minimum limits stated below. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two times the occurrence limit. Such insurance shall include coverage for bodily injury, including death, and property damage, providing the following limit:

i. Each accident \$1,000,000;

Business automobile coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, (or substitute form providing equivalent or greater coverage) and include:

i. Coverage for liability arising out of any auto (including owned, hired or non-owned automobiles);

ii. Coverage for liability assumed under insureds contracts; iv. Additional insured endorsement (primary and non-contributory) naming MLGW and its directors, officers and employees;

iii. A waiver of subrogation in favor of MLGW and its directors, officers and employees;

#### 7.05 Umbrella Liability Policy:

KTG shall maintain during the life of this Contract umbrella liability insurance providing limits in excess of KTG's scheduled underlying insurance policies, which shall include, but not be limited to:

- i. Commercial general liability insurance policy;
- ii. Business automobile liability insurance policy;
- iii. Employers liability coverage provided by the scheduled workers compensation policy;

The umbrella liability insurance policy will provide limits of not less than \$2,000,000 above the scheduled underlying policies. The coverage will:

- i. Contain pay on behalf wording;
- ii. Have an effective date concurrent with the commercial general liability policy;
- iii. Provide following form coverage over required primary coverages.

7.06 MLGW reserves the right during the term of the Contract to review the type, nature and amount of insurance provided and to require KTG to provide insurance of the type, nature and amount customarily provided for such work, if not previously provided.

#### **SECTION 8. MISCELLANEOUS GENERAL PROVISIONS**

8.01 This Agreement may be modified or amended only by a written document signed by both parties.

8.02 This Agreement may not be assigned or transferred without the prior written consent of the other party hereto.

8.03 This Agreement represents the full and final understanding of the parties with respect to the subject matter described herein and supersedes any and all prior agreements or understandings, written or oral, express or implied.

8.04 This Agreement does not and shall not be construed to create a partnership or joint venture between the parties hereto.

8.05 This Agreement shall be governed by the laws of the State of Tennessee. All actions, whether sounding in contract or tort, relating to the validity, construction, interpretation and legal effect of this Agreement shall be instituted and litigated in the courts of Shelby County, Tennessee or the United States District Court for Western District of Tennessee. The parties hereto hereby irrevocably submit to the jurisdiction of said courts.

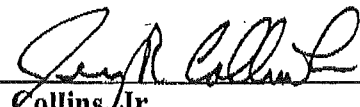
8.06 Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity or enforceability of the remaining provisions.



8.07 No provision of this agreement shall require MLGW or the City to apply for or obtain the ECD grant as such an act may require the consent of the Memphis City Council and/or the MLGW Board of Commissioners.

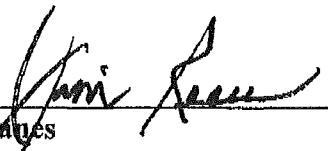
IN WITNESS WHEREOF, the parties by and through their fully authorized representative have executed this **AGREEMENT BETWEEN MEMPHIS LIGHT, GAS AND WATER AND K.T.G. (USA) INC. FOR USE OF GRANT PROCEEDS** for infrastructure improvement as of the date above written.

**MEMPHIS LIGHT, GAS AND WATER DIVISION**  
City of Memphis, Memphis, Tennessee

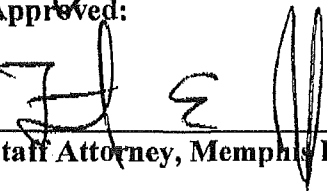
By:   
Jerry R. Collins, Jr.  
President and Chief Executive Officer

Date: Jan 12, 2012

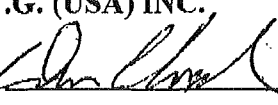
Attest:

 1-12-12  
Dana Jeanes  
Vice-President, CFO and Secretary-Treasurer

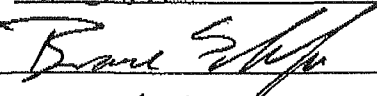
Approved:

  
Staff Attorney, Memphis Light Gas and Water

K.T.G. (USA) INC.

By:  - President KTG (USA) Inc

Date: 6 Jan 2012

By:  Controller

Date: 1/6/12

Exhibit A



MEMPHIS LIGHT, GAS AND WATER DIVISION

**KTG Procurement List & Schedule**

<u>ITEM</u>	<u>QTY</u>	<u>REQ DATE</u>	<u>EST. DELIVERY</u>	<u>COST</u>
Switchgear/Control House	1	1/15/2012	9/1/2012	\$ 1,500,000.00
170 KV PCB	3	3/1/2012		\$ 225,000.00
169 KV Air Disc Switch	7			\$ 140,000.00
170 kV CT	3			\$ 60,000.00
170 kV VT	3			\$ 60,000.00
170 kV CVT	6			\$ 48,000.00
Station Service Xfmr	2			\$ 10,000.00
Deadend Structure	2			\$ 75,000.00
Structural Steel	1 Lot			\$ 75,000.00
Metering Equipment	1 Lot			\$ 5,000.00
Multiplexing Equipment	1 Lot			\$ 30,000.00
Miscellaneous S/R Items				\$ 25,000.00
TOTAL				\$ 2,253,000.00



## Memphis City Council Summary Sheet

Please provide a brief summary of the item, in bullet form, not to exceed one page:

1. Describe item (Resolution, Ordinance, etc.)  
**This is a resolution approving the employment of Mr. Roland McElrath as Controller, at an annual salary of \$133,016.00.**
2. Identify initiating party (e.g., Public Works; at request of City Council, etc.)  
**Memphis Light, Gas and Water Division**
3. State whether this is a change to an existing ordinance or resolution, if applicable.  
**This does not change an existing ordinance or resolution.**
4. State whether this requires a new contract, or amends an existing contract, if applicable.  
**This does not require a new contract or amend an existing contract.**
5. State whether this requires an expenditure of funds/requires a budget amendment.  
**This does not require an expenditure of funds or a budget amendment.**

### **CITY COUNCIL RESOLUTION**

**WHEREAS**, the Board of Light, Gas and Water Commissioners at its meeting held June 7, 2012, approved the employment of Mr. Roland McElrath as Controller at an annual salary in the amount of \$133,016.00 and certified his nomination for approval by this Council, pursuant to the requirements of the Charter of the City of Memphis.

**WHEREAS**, the City Charter requires the above mentioned item be approved by the City Council.

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that the employment of Mr. Roland McElrath as Controller at an annual salary in the amount of \$133,016.00 is hereby approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**June 7, 2012**


=====

The President has recommended to the Board of Light, Gas and Water Commissioners the employment of Mr. Roland McElrath as Controller at an annual salary of \$133,016.00 and the certification of his nomination to the City Council for approval pursuant to the Division's Charter.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the employment of Roland McElrath as Controller at an annual salary of \$133,016.00 is hereby approved and that his nomination to such position is hereby certified for approval by the City Council.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 7th day of June, 2012, at which a quorum was present.

  
\_\_\_\_\_  
Secretary - Treasurer



## Memphis City Council Summary Sheet

Please provide a brief summary of the item, in bullet form, not to exceed one page:

1. Describe item (Resolution, Ordinance, etc.)

**Resolution for the fiscal year of 2013 to approve the City of Memphis - Division of Housing and Community Development's leases and / or sub-leases of Memphis City property that may be subject to City of Memphis Ordinance 2-291 relating to Real Property.**

2. Identify initiating party (e.g., Public Works; at request of City Council, etc.)

**Division of Housing & Community Development**

3. State whether this is a change to an existing ordinance or resolution, if applicable.

**Not Applicable**

4. State whether this requires a new contract, or amends an existing contract, if applicable.

**This requires a new contract (a new Lease Agreement).**

5. State whether this requires an expenditure of funds/requires a budget amendment.

**This does not require an expenditure of funds or a budget amendment.**

## **RESOLUTION**

**WHEREAS**, City of Memphis Ordinance 2-291 relating to Real Property provides language and processes for the disposition of City of Memphis properties through sale, exchange or transfer; and

**WHEREAS**, it is clear and concise per said language that City of Memphis Ordinance 2-291 relates to the disposition of real property belonging to the City of Memphis; and

**WHEREAS**, for the purposes of Ordinance 2-291 relating to Real Property any lease or license agreement two (2) years or more shall be considered a conveyance and shall be submitted to City Council for approval; and

**WHEREAS**, for the purposes of Ordinance 2-291 any extensions or renewals bringing the total term to two (2) years or more shall be included as a conveyance; and

**WHEREAS**, in the context of leases, a new lease that is merely a reexecution of the old lease, and does not confer any greater obligations or rights than those in the old lease, said transaction is a renewal of the old lease; and

**WHEREAS**, the Division of Housing and Community Development of the City of Memphis leases and / or sub-leases City of Memphis property that may be subject to City of Memphis Ordinance 2-291 relating to Real Property; and

**WHEREAS**, the Division of Housing and Community Development of the City of Memphis shall submit its leases and / or sub-leases to the City Council of Memphis City for approval; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE, that:**

1. The Lease Agreements between the City of Memphis and the Lessees listed on **Exhibit A** are hereby approved at the rates specified on **Exhibit A**.

2. The term of the Lease Agreements between the City of Memphis and the Lessees listed on **Exhibit A** shall be as specified on **Exhibit A**.

3. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

4. **BE IT FURTHER RESOLVED**, that for the fiscal year of 2013, the City Mayor is hereby authorized to execute all documents necessary to lease and / or sub-lease the properties listed on **Exhibit A** to the Lessees listed on **Exhibit A** for the term therein specified.

**EXHIBIT A**

**CITY OF MEMPHIS HCD LEASES**

[illegible]



Memphis, Tennessee, Code of Ordinances >> Title 2 - ADMINISTRATION >> CHAPTER 2-16. - CITY REAL PROPERTY MANAGEMENT >>

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**CHAPTER 2-16. - CITY REAL PROPERTY MANAGEMENT**

**Sections:**

Sec. 2-16-1. - Sale generally.

**Sec. 2-16-1. - Sale generally.**


The manager of the city real estate department shall be authorized to sell, exchange or transfer property no longer deemed necessary for city use and approve the sale of property deemed surplus under the following conditions:

- A. Sale of property for market value.
  - 1. The city real estate manager shall place a value on all properties being considered for sale. However, on all properties having a probable value of \$10,000.00 or more or on properties having a value of less than \$10,000.00 where the real estate manager determines that an independent valuation is needed, the services of a qualified independent real estate appraiser may be obtained. After a valuation has been placed on the property by the city real estate manager, he or she shall be authorized to make and approve the sale of such properties subject to the other provisions of this section.
  - 2. The sale of properties receiving an initial bid offer of \$20,000.00 or less shall be submitted for approval to the city council for first reading, which shall be final.
  - 3. Properties receiving an initial bid offer exceeding \$20,000.00 shall be submitted to the city council for first and second reading. The second reading shall be final. However, at the second reading, subsequent bidders will be permitted to bid in open council session, but the first increased bid must be a minimum of \$500.00. Thereafter, additional increases must be in minimum increments of \$50.00.
  - 4. Subsequent bidders must adhere to the terms and stipulations of the initial agreement and may not introduce new contingencies in their bid.
  - 5. On bids exceeding \$20,000.00, failure of the highest bidder to follow through with the purchase of the property will result in the next highest bidder being accepted as purchaser. Any funds paid as earnest money by any prospective purchaser may be forfeited for failure to follow through with the purchase of the property.
- B. Exchange of property.
  - 1. The governing authorities of the city shall have full authority to exchange any real property acquired by them or held by the city, but no longer needed or utilized for municipal purposes. Any proposed exchange shall be first approved by the city attorney and shall be advertised in a local newspaper at least two weeks prior to its initial presentation to the city council of the City of Memphis.
  - 2.

Prior to such exchange the properties to be exchanged shall be appraised as to market value by a professional independent appraiser and reviewed by the manager of the real estate department.

3. Subsequent to the fixing of the values on property to be exchanged, the same shall be approved by the city council, and, such values having been so approved, a resolution authorizing the execution of deeds of conveyance shall be submitted and passed by the city council. The resolution shall provide for a first and second reading. The second reading will not subject the city property to increased bids and shall be final.
- C. Sale or transfer to another governmental entity. In the event a sale or transfer of real property, is to be made to any other governmental entity, its departments or agencies, the real estate manager shall be authorized to make and approve such sale or transfer subject to a resolution authorizing the execution of deeds of conveyance submitted to the city council for first reading, which shall be final, and it shall not be necessary to receive bids or require a monetary consideration for such property to be sold to a governmental entity, its departments or agencies.
- D. Sale of excess realty in connection with street projects.
1. When the city real estate department acquires right-of-way for a new street or public thoroughfare or for the improvement, realignment, or relocation of all or a portion of an existing thoroughfare or right-of-way and such project results in any of the following conditions, the department may, at its discretion, acquire title to and dispose of such properties in the immediate vicinity of the new or former thoroughfare or right-of-way:
    - a. The severance of a property owner's land resulting in an uneconomical remnant;
    - b. The realignment of a thoroughfare or right-of-way or abandonment of an existing thoroughfare or right-of-way which has the effect of eliminating or substantially reducing the access a property owner may have to the new thoroughfare or right-of-way;
    - c. The payment to a property owner for incidental damages arising out of land severance, denial of access or probable reduction in the value of the remnant would equal or exceed the cost of the real property to be conveyed to the affected property owner in lieu of cash compensation for damages. It shall not be a requirement to obtain a monetary consideration for such property.
  2. Such agreements to acquire or dispose of excess realty from or to specific property owners in connection with a street project may be made a part of the regular right-of-way agreement, a supplement, or a separate agreement subject to approval by the city engineer and execution of all necessary documents by the appropriate city officials.
- E. Disposition of property to an adjoining equitable purchaser. The city real estate manager shall be authorized to convey property to a selected adjacent property owner, without necessity of competitive bidding, for approval by the city council with one reading under the following circumstances:
1. The city property to be conveyed would have no reasonable utility, for building or other purposes, unless it was used in conjunction with the property of the selected adjoining property owner.
  - 2.

- Conveyance of the property to any prospective purchaser other than selected adjoining property owner would materially diminish the value and/or utility of the property of the selected adjacent property owner.
3. Conveyance of the property to any prospective purchaser other than the selected property owner would cause undue hardship to the selected adjacent property owner.
  4. The selected adjacent property owner is willing and capable of paying the value of the adjacent property to be acquired based on valuation determined by the city real estate department.
- F. Disposition of property acquired for redevelopment purposes. Property acquired by the city for redevelopment purposes may be conveyed upon such terms and conditions as it deems proper and without regard to the conveyance procedure outlined in subsection A of this section, upon passage of a resolution authorizing such sale or conveyance by the city council upon first reading, which reading shall be final. Such reading shall take effect only after the following has been accomplished:
1. A finding by the city office of housing and community development or its successor agency that such a sale or conveyance under the terms of this subsection would be in furtherance of the redevelopment goals of the Housing and Redevelopment Act of 1974, 2 USC 5301 et seq.; or
  2. A finding by any other city office, agency or department, whose purpose is the redevelopment of the city, that a sale under the terms of this subsection would be in furtherance of municipal redevelopment purposes.
- G. Disposition/conveyance of property for public benefit.
1. The city real estate manager is authorized to convey or dispose of city property at reduced or no cost to the following entities in the following order of priority:
    - a. Adjoining property owners;
    - b. A neighborhood organization in an area targeted by the city for redevelopment;
    - c. Nonprofit organizations whose use of the property will be for the benefit of the community;
    - d. A program implemented or assisted by a private entity or government agency which has as its goal the development of vacant or underdeveloped land or the renovation of existing improvements on city-owned land for the purpose of providing occupant-owned housing to persons who qualify for housing programs designed for moderate and low income households and who would not otherwise be eligible for such housing;
    - e. Other entities or organization (profit or nonprofit) which, in the opinion of the mayor or chief administrative officer of the city, are proper recipients of such property.
  2. Conveyance of the property to the above described entities shall be subject to the following conditions:
    - a. Submission of an application to the city real estate department by the entity seeking ownership of the property utilizing forms created and approved by the city real estate department;
    - b. Completion by the city real estate department of a form providing basic information about the property, and valuation of the property;

- c. Completion of a form by the city division which initiated the request for the property;
  - d. Requests for conveyance of property under the terms of subdivision (1) (d) of this subsection must be made by either the mayor or the chief administrative officer only. All of the other provision of this subsection (G)(2) shall apply except for subsections (G)(2)(c) and (e);
  - e. Approval from both the director having jurisdiction over the property and from the chief administrative officer;
  - f. Approval by the Memphis City Council. Approval shall become final on second reading after all interested parties shall have had an opportunity to voice either their approval of or opposition to the transfer.
- H. Auction of distressed property. Any city property which has not been disposed of in conformity with the above methods after the expiration of two years from the date efforts were first made to dispose of such property may, at the discretion of the real estate manager, be presented before the city council for a public auction which sale shall be final. Any property proposed for auction shall be first approved by the city attorney and shall be advertised in a local newspaper at least two weeks prior to its presentation to the council of the City of Memphis.
- I. Disposition of funds. All proceeds from the sale of city-owned real estate not specifically under the management of some board or commission entitled to receive the same, and not set aside for some specific purpose, shall be paid into the general fund, to be disbursed for any lawful municipal purpose.
-  J. Lease agreements involving real property. For the purposes of this section, any lease or license agreement two years or more shall be considered a conveyance and shall be submitted to city council for approval, except for right of entry agreements, encroachment agreements, and easement agreements. Any extensions or renewals bringing the total term to two years or more shall be included as a conveyance.

(Code 1985, § 2-291; Ord. No. 4381, § 1, 12-19-1995; Ord. No. 5346, § 1, 3-23-2010)

## **CITY COUNCIL RESOLUTION**

**WHEREAS**, the Memphis City Council recognizes that as a result of the work of the unified school board, the Transition Planning Commission, and the Bill & Melinda Gates Foundation, Memphis and Shelby County Schools have a once in a lifetime opportunity to reinvent public education and create a world class school system in Memphis, Tennessee; and

**WHEREAS**, this unified school system must innovate in order to ensure each of the 150,000 students served has access to a world class education that prepares them for work, college, and life; to achieve this end, both district and charter schools are valuable and necessary contributors which must find ways to partner and share best practices with one another; and

**WHEREAS**, the Bill & Melinda Gates Foundation is awarding more than \$40 million in competitive funding for cities that have signed Charter-District Collaboration Compacts; the Compacts are signed by leaders from district schools, charter schools and local communities who pledge to share best practices, innovations and resources among charters and districts in order to prepare more students for college by working collaboratively on areas like teacher effectiveness, college-ready tools and supports, innovative instructional delivery systems and school models, and improved student-level data use; and

**WHEREAS**, local leaders in 14 cities including Chicago, Baltimore, Boston, Denver, Los Angeles, Minneapolis, Nashville, New Orleans, New York City, and Sacramento have signed Charter Compacts.

**NOW, THEREFORE BE IT RESOLVED**, that the Memphis City Council urges the unified Memphis and Shelby County School Board to signify their commitment to increase the number of students served by high performing schools by entering into a Charter-District Collaboration Compact, which will be the beginning of an ideal and mutually supportive partnership between district and charter schools in our community.

MYRON LOWERY  
Memphis City Council

## **DRAFT COMPACT**

The Boston Public Schools and the Boston Alliance of Charter Schools together comprise the public education system for all of Boston's children. As systems, we share the crucial responsibility of providing the high quality education that prepares students for college, work and life.

In the interest of providing *all* Boston students and families with improved schools and broader choice, we are inaugurating a new culture of collaboration between the district and charter schools. The partnerships we will embark upon are aimed at adding value to the broader public education system rather than benefitting one party or another. We will support one another in a variety of manners, ranging from taking best instructional practices to scale to addressing significant budget challenges such as facilities and transportation. With students' best interests in mind, we will explore promising systemic innovations together. We also will hold one another accountable for addressing low performing schools.

We recognize that this partnership requires trust, mutual respect and close collaboration between our respective schools and systems. In establishing this compact, we have begun to work together, sharing ideas and perspectives. We have validated that we have more in common than unlike. Though this document simply represents the end of the beginning of our process, we believe that we have created an agreement that will lead to tangible, significant results for students, families and our City.

In order to realize our shared aims, each system makes the following pledges:

### **The Boston Alliance of Charter Schools commits to:**

- a. Serve all types of students in the City of Boston, emphasizing outreach to, services for and retainment of underserved populations including, but not limited to English Language Learners and students with varied special needs. Charter schools will also make public/share with the district institutional data regarding student demographics (such as ELL, students in special education or foster care, students who are homeless, survivors of violence), mobility and achievement.
- b. Support the location of new charter schools in the neighborhoods with greatest need, by collaborating with the Boston Public Schools to analyze need (including grade configuration in an area).
- c. Minimize transportation costs to the Boston Public Schools by focused recruitment within the school's geographic community, when possible coordinating school start and end times with the district, and exploring the possibility of paying for transportation in exchange for access to district buildings or services.
- d. Share best practices and promising innovations with the Boston Public Schools.

**The Boston Public Schools commit to:**

- a. Respect and protect the autonomies of all public charter schools in the City, including charter school availability to all students.
- b. Engage with the Boston Alliance for Charter Schools during public discussion and decision-making about the district's portfolio of schools, particularly when there will be changes to grade configurations or types of schools offered in a particular neighborhood.
- c. Explore leasing vacant or under-utilized district buildings to charter schools, possibly in exchange for charter assistance with transportation costs as well as broad participation in this compact.
- d. Explore opportunities to offer charter schools access to bulk purchasing.
- e. Investigate the possibility of establishing contracts for the district to serve particular special needs populations on behalf of charter schools, and explore methods of helping charter schools recruit English Language Learners and students with varied special needs.
- f. Share with the Boston Alliance institutional data regarding student demographics (such as ELL, students in special education or foster care, students who are homeless, survivors of violence), mobility and achievement.
- g. Share best practices and promising innovations with charter schools.

In order to make this collaboration a reality we, the leaders of the Boston Public Schools and the Boston Charter School Alliance will:

**I. Co-construct and establish an Office of Compact Agreement**

This neutral non-profit organization will serve as the governing body for the compact and will be charged with transparent oversight of shared initiatives, collaborative problem-solving, and securing and distributing financial resources for shared work. The Boston Public Schools and the Boston Alliance of Charter Schools will be equally represented in this organization. For the first 2-year term, BPS Deputy Superintendent Michael Goar and MCPSA President Kevin Andrews will serve as Co-Chairs.

**II. Advance partnership work in the four areas central to this compact**

As we built this compact, our colleagues identified four priority areas for collaboration: Teaching and Learning, School Portfolio, Student Supports and Systems and Accountability. We formed working groups for each of these areas. The working groups have already added value by building relationships between our systems and identifying challenges and opportunities for together improving public education in Boston.

With the signing of this compact, working group members commit to continue collaboration over the coming months and years to advance the charges delineated below. In some cases, working groups will delegate specific tasks to subcommittees of their group.

**A. Teaching and Learning**

1. Facilitate learning communities and shared professional development for district and charter teachers, instructional leaders and school heads in order to share best practices and explore innovations for broader application.
2. Highlight the importance of developing leaders with *turnaround* and *new school development* skills, sharing best practices and working with local graduate certificate and/or degree programs to develop formal education.
3. Establish a three-way partnership between an internship program, BPS and charter schools so that district and charter schools hire teachers trained to work in Boston.
3. Develop common goals, supports and procedures regarding student expectations, including academic targets, graduation requirements and policies for retaining or transferring students through the course of the school year (particularly high school students).

**B. School Portfolio Working Group**

4. Jointly develop and analyze a data set of student demographic information, school academic performance data and enrollment patterns in order to inform the vision for the portfolio of schools and strategic decision-making.
5. Enhance equitable access to high quality education for all students, including, but not limited to English Language Learners and students with disabilities, by developing joint recommendations for the siting of schools, the use of public buildings, and a collaborative process for addressing student enrollment, assignment and transportation.
6. Explore opportunities to partner for bulk purchasing and/or services.

**C. Student Supports**

7. Expand student and family supports, particularly for children with special needs, and opportunities to participate in extra-curricular programs between district and charter schools within the Circle of Promise.

**D. Systems and Accountability**

8. Develop a common school accountability instrument with an emphasis on identifying root causes of performance. This tool will include a section for school leaders to comment on why the school did or did not meet its goals.
9. Identify a tool and establish a process for evaluating the efficacy of individual schools, acknowledging the level of a school's performance and making recommendations for expansion of successful programs or school turnaround plans and closures as needed.